

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
WESTERN DIVISION**

NO. 5:09-CV-176-FL

SIMON CAMARA,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	<b><u>MEMORANDUM &amp;</u></b>
	)	<b><u>RECOMMENDATION</u></b>
	)	
	)	
NORTH CAROLINA CENTRAL	)	
UNIVERSITY, <i>et al.</i> ,	)	
	)	
Defendants.	)	
_____	)	

This matter comes before the Court upon the motion to dismiss filed by Defendants Farida Azam and Tim Moore (DE-18). Plaintiff has responded to this motion (DE-21), and the matter is now ripe for adjudication. Pursuant to 28 U.S.C. 636(b)(1), this matter is before the undersigned for the entry of a Memorandum and Recommendation. For the following reasons, it is HEREBY RECOMMENDED that Defendants' motion to dismiss (DE-18) be GRANTED and that Plaintiff's claims against Defendants Farida Azam and Tim Moore be DISMISSED.

**Analysis**

Defendants have filed their motion to dismiss pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure. “The purpose of a Rule 12(b)(6) motion is to test the sufficiency of a complaint....” [Edwards v. City of Goldsboro, 178 F.3d 231, 243 \(4th Cir.1999\)](#). To

survive a Rule 12(b)(6) motion, a plaintiff must “ ‘give the defendant fair notice of what the ... claim is and the grounds upon which it rests.’ ” [Erickson v. Pardus, 551 U.S. 89, 93 \(2007\)](#) (quoting [Bell Atl. Corp. v. Twombly, 550 U.S. 544, 555 \(2007\)](#)). The facts alleged must “raise a right to relief above the speculative level,” and the complaint must contain “enough facts to state a claim to relief that is plausible on its face.” [Twombly, 550 U.S. at 555, 570](#). “A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged.” [Ashcroft v. Iqbal, 129 S.Ct. 1937, 1949 \(2009\)](#). “[T]he tenet that a court must accept as true all of the allegations contained in a complaint is inapplicable to legal conclusions” or “[t]hreadbare recitals of the elements of a cause of action, supported by mere conclusory statements.” [Id.](#) A complaint may survive a motion to dismiss only if it “states a plausible claim for relief” that “permit[s] the court to infer more than the mere possibility of misconduct” based upon “its judicial experience and common sense.” [Id. at 1950](#). Without such “heft,” [Id. at 1947](#), claims cannot establish a valid entitlement to relief, as facts that are “merely consistent with a defendant’s liability,” [Id. at 1949](#), fail to nudge claims “across the line from conceivable to plausible.” [Id. at 1951](#) (quotations omitted).

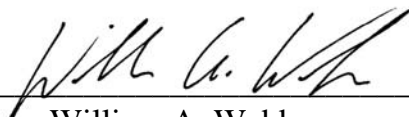
Plaintiff brings this suit pursuant to Title VII of the Civil Rights Act of 1964 (“Title VII”), 42 U.S.c. § 2000e, *et seq.* He alleges that he was dismissed because of his race and national origin (DE-21, pg. 1). Specifically, Plaintiff contends that his immediate supervisors, Defendants Tim Moore and Farida Azam, “retaliated against . . . [him] for previously filing a racial discrimination and harassment complaint . . .” (DE-21, pg.1).

However, in Lissau v. Southern Food Service, Inc., 159 F.3d 177 (4<sup>th</sup> Cir. 1998), the Fourth Circuit held that individual supervisors are not “employers” for purposes of Title VII and cannot be held liable under that statute. *Id.* at 180-81. Therefore, Plaintiff has failed to state a claim against Defendants Farida Azam and Tim Moore upon which relief can be granted.

**Conclusion**

For the aforementioned reasons, it is HEREBY RECOMMENDED that Defendants' motion to dismiss (DE-18) be GRANTED and that Plaintiff's claims against Defendants Farida Azam and Tim Moore be DISMISSED.

SO RECOMMENDED in Chambers at Raleigh, North Carolina this 23<sup>rd</sup> day of March, 2010.

  
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William A. Webb  
U.S. Magistrate Judge